

# JUDGE TAYLOR — IN HIS OWN WORDS

*The following is a series of excerpts from a 1987 interview with Judge Fred Taylor conducted by Robert Smylie for the Judicial Historical Society.*



The Idaho Prosecuting Attorney's Association presented Judge Taylor with the James H. Hawley Award in 1987.

**Q. Perhaps we'd better start with some of the vital statistics. Where were you born and when?**

A. I was born in Nampa, Idaho on February 20, 1901.

**Q. Were you brought up in Nampa?**

A. Yes. Born, raised and educated in the Nampa schools. I graduated from Nampa High School in 1920.

**Q. Can you give me any early memories of school and friends?**

That's a little difficult. Most all the young people in Nampa were friends. While I was growing up in Nampa, it was only a town of about 5,000, growing to about 10,000, and now I expect its about 20 or 30 thousand. But all the young people were friends because it was a small town.

**Q. Were you a star halfback or anything?**

A. No. I wanted to take part in athletics, but we, my brother and I had to work after school delivering merchandise for our father, and we just didn't have time to go out for sports . . . we did a little of everything. On vacations we took care of

stock and gardens and delivered for the store. We always helped out.

**Q. Do you remember any specific impact that World War I or World War II had on your family?**

A. Although I was pretty young, I can remember quite well. In regard to World War I, I think it was Company B of the Guard from Nampa that went, and some of our good friends went and I can remember them taking off on the train. My brother was just under age and he wanted to go very bad. I also remember some of our good friends didn't come back. And some of those that did were in very bad shape because, as you will remember, in World War I they used gas.

**Q. Do you remember any impact on your family by World War II?**

A. Not really. In World War II, I was too old then to get in the service. I tried to get in the Navy and the Judge Advocate Corps. I thought I was going, but they finally told me that lawyers were 10 cents a dozen and furthermore they could get people to serve with lower grades. So I didn't go, but I did help out with Special Services at Gowen Field.

**Q. Do you have any specific memories about your years in high school?**

A. Not really. I was a fairly good student, although I wouldn't say I was anything special. I did a little of everything besides going to school, and I was also in dramatics some. I remember the last year, a fellow by the name of Homer Huddleson was principal at that time and he wanted me to get into the Senior Class play. I didn't want to very bad, but he said, "Well, if you will, you won't have to take any examinations." So I did. When I went to college, Homer was at the University (of Idaho). I think he was at the Ag end of it.

**Q. Did you consider going to any college than the University (of Idaho)?**

A. To tell you the truth, Governor, I didn't know what a university was. My folks never had any higher education and nobody ever talked to me about going to college. I knew I wanted to do something about it and a fellow by the name of Strode, who was running a transfer company where I was working part time said to me, when I was talking about trying to go to college, that Senator Borah told him that if he ever wanted anything to let him know. Without my knowing it, Bill Strode wrote to Senator Borah and Borah gave me an alternate appointment to West Point. However, the first appointee was at the University of Idaho, and he went so of course I couldn't. A friend of mine persuaded me to go to the University (of Idaho) with him. I had a few dollars I had made in McCall driving truck and working in a mercantile store. Casey said, "If you don't want to stay, you don't have to, but you can go look the place over." He had been there before, so we went and that's how I happened to go to college. My friends were betting that I'd be back in six weeks, but I stayed for five years.

**Q. Were there any specific influences at the University that made a lasting impression on you?**

A. At the University I was quite active and I think one of the best things I ever did, after the first semester was to join a fraternity . . . the first semester I didn't have any money, and I was working in the furniture department of Davids (the biggest mercantile department store in Moscow.) And then after the first semester I worked most of the time either in the clothing department or furniture, or both, and later I hashed at the Gamma Phi House for two years. I was house manager for the fraternity and I also managed the school paper for one year.

**Q. Was that called The Argonaut in those days?**

A. Yes. It was actually called The University Argonaut but we, the editor and I, didn't think that was a very good name so we changed the name to The Idaho Argonaut . . . When I was manager, we also changed it from a weekly to a bi-weekly. The reason for that was because I got paid by the issue as well as over a certain amount of the advertising. That year I made money and also hashed for my board.

**Q. Where did you finish in your class?**

A. I don't know. I'll put it this way, I took the bar the next week after commencement at Lewiston. A fellow by the name of Madden and a friend by the name of Cummings who had graduated in mining and also law, persuaded me into taking the bar at that time. I hadn't done any preparation for the examination, but went to Lewiston and took it anyway. There were three Gonzaga men that took it at the same time. When we went to lunch, the Gonzaga men were saying how easy they thought the exam was and I was kind of sweating a little blood. Two of the Gonzaga men flunked and I heard, although I didn't verify it, that I was the second highest. I understand Tom Madden was the highest.

**Q. Did you have any money when it was over?**

A. No. I caught a ride with a friend from Lewiston after I had found out I passed the bar. I didn't have any idea what I was going to do. In those days young lawyers had to go out and pick with the chickens. A friend of mine and a fellow by the name of Rex Kimmel, who preceeded me in Valley County, were looking for me to run for prosecutor on the Republican ticket in Valley County. I got a ride from Lewiston to Grangeville, and then I took the stage to McCall. Kimmel and the probate Judge came to McCall and took me down to

Cascade. They talked to me about running for prosecuting attorney, but I couldn't file because I hadn't been there long enough. My friends conceived the idea of writing in my name on the Republican ticket. I stayed there a day or so to observe a trial that was going on. Oscar Worthwine was one of the lawyers for the plaintiff and old Governor Hawley was sitting in the background . . . That was about the first time I had seen a trial. I told my friends that I would have to go to Boise and get sworn in and see my folks. I caught a ride with the sheriff to Boise and Mr. Hart, the Clerk of the Court, swore me in. We didn't have any ceremony. I went back to Cascade on the stage and got there about noon on the day of the primary. Rex Kimmel and some of the other folks had written my name in and I was nominated on the Republican ticket.

**Q. Do you recall your first client?**

A. Yes sir, I do. The first client I had was before I was elected. There were two fellows that got in a fight with another fellow by the name of Clarence Loomis who came onto the ranch owned by a fellow named Bratton. Loomis was mad about something, cattle or something, and was going to lick Bratton who was about 5'6". Bratton's nephew was also there. This Loomis took a good beating so he and his brother, by the name of Floyd Loomis, had Bratton and his nephew arrested for assault with intent to commit mayhem. I don't know what they did, but I think they bit his ear. They were the first clients I had, and I took them through the preliminary. The Court only came up to Cascade about twice a year, and since I was running for prosecutor, I knew if I were elected I'd be disqualified. Judge Varian was the Judge of the Seventh District Court, and I told his reporter that I didn't know what to do about the case. I said, "If I'm elected, I can't defend these people," and I had some qualms about it even if I weren't

elected. They were going to arraign them that day before Judge Varian, and I also wanted to go to homecoming at Moscow. The reporter said, "Why don't you ask the Judge?" So I told the Judge my problem and said that if somebody else were to take the defense of the defendants, they might want to withdraw the plea and attack the information. He looked down at me over his glasses and said "There will be no monkey-doodle business like that in this court." Of course I was taken aback, so I pled them not guilty, and as it turned out I was disqualified and D.L. Rhodes defended them and cleared them. Anyway, I got a little retainer out of it. Judge Varian, I might add, later became a Supreme Court Justice on the Idaho Supreme Court.

**Q. Was your work in Cascade affected any by your political and economic outlook?**

A. No. I always made a little money. In those days I only received \$100/month the first two years. But they did raise it to \$133 later on.

**Q. How long did you stay in Cascade?**

A. I was there eleven years — nine years as prosecutor.

**Q. Did you marry while you were in Cascade?**

A. Oh yes. Gwen, my wife, was deputy clerk of the court.

**Q. Do you have any memories that you specifically associate with the Depression?**

A. Of course I felt some of it, but I never felt it too much. I always made a little money and living was cheap up there. As I said, at that time I think I was getting \$1400 a year as prosecutor and rented a house for \$25/month. We could eat on about \$30/month and I had no overhead, so I never really felt it like lawyers down here. Also, I was making some money from my practice. I know some lawyers in this town couldn't even pay their rent during the Depression.

**Q. You moved to Boise in 1937?**

A. That was when I bought the house. Officially, I came to Boise to live in January 1938.

**Q. And you were officing with Tom Martin when you came down?**

A. Yes, on the 4th floor of the Idaho Building.

**Q. Why don't you describe your practice in a general way during those 15 years or so between then and the time you went on the bench?**

A. I didn't do too much criminal work. I would say I had quite a little civil business — the ordinary run of civil business, negligence cases, representing corporations, setting up corporations, probate and office practice. It was just general practice.

**Q. Tell me something about your social, civic, professional activities during those years.**

A. I was a Kiwanian — in fact I became president of the Boise Kiwanis Club. I belonged to the Sunset Club, and at one time I belonged to the Arid Club. When I went on this court, I decided that it was a good policy not to be rubbing elbows with people that I might see in my court so I resigned from those clubs.

**Q. Did you immediately get interested in Ada County politics?**

A. When I came here in 1938, I became secretary of the Republican State Central Committee and ran the headquarters. Then I got involved in Westerman Whillock's mayoralty campaign. In 1942 some of my friends wanted me to run for the Senate seat vacated by Ed Baird who ran for lieutenant Governor. I ran and was elected in 1942. I was in the State Senate until 1951. So I was quite interested in state politics in one way or another — statewide, countywide and citywide. Also, Stan Skyles, the city attorney went into the Marines (during WWII) and I was asked by the Mayor to become city attorney in his place, which I did. I think that was for two years until Stan got back. I didn't have to, but I felt I should resign so that he could



In 1981 a distinguished group gathered to mark Judge Ray McNichols' change to Senior status. L-R: Judge Ray McNichols, Judge Fred Taylor, Judge Bob McNichols, and Judge J. Blaine Anderson. Standing: Thomas J. McCabe.

be reappointed. He stayed on in that position I believe until he died. I think I was city attorney from 1944 to 1946.

**Q. Do you miss private practice? It's been 33 years.**

A. Frankly I do. Most people won't believe it, but if I had this job for say 10 years, I'd like to have gone back into private practice. I always felt that I could do something for somebody in private practice. But in this business, all I do is something to somebody. I'll put it this way. I enjoyed the private practice in many respects. I don't discount this job. I've enjoyed it in many ways very much.

**Q. What was your first judicial experience?**

A. The first case I had, Judge Blaine Anderson, a practicing lawyer then, was one of the attorneys. It was a question of jurisdiction down on the reservation at Blackfoot, and I remember that he didn't prevail. We've had quite a lot of fun about that.

**Q. Would you describe your work habits as a judge?**

A. I tried very hard to do my job. I was there when I was supposed to be every day and got everything done that I was supposed to do. I didn't take very many vacations.

**Q. How do you reach a decision once you've tried to case?**

A. Of course that's sometimes the hardest part of it — making a deci-

sion. But you do it by determining the facts from the record and by researching what the law is or what you think it is. Sometimes you guess right and sometimes you don't. I think what make a good trial is having good lawyers — well-prepared — as well as the judge trying the case. That's what makes a good trial. You can't have a good trial with somebody who doesn't know what's going on. It just wears you out trying to keep the record straight.

**Q. Do you remember any cases that you particularly agonized over?**

A. I agonize over them all, but some more than others. I have had just about every kind of case you can imagine. And over a period of time they have changed. The practice of law, as you well know, has changed. Getting into anti-trust, products liability and all that sort of thing. So with all these changes, some of them get pretty difficult to determine which way to go. We don't make the law. We get a lot of stuff that shouldn't be in the courts and a lot of it is brought to get a little something out of it. We have a lot of that going on and it's true in the Court of Appeals. Judge Anderson will tell you that half of the cases there shouldn't be there and I think it's true here.

**Q. What are the qualities that make a good lawyer?**

A. I think a good lawyer has got to be open-minded, so to speak. I think

he has to approach the law business as a duty, serving the public and his clients, and not try to slicker someone. He should be honest with himself and his clients, and use the best judgment he can and do the best job he can within the law.

**Q. What is the function of dissent?**

A. There isn't any function that I know of as far as making law. Except, I suppose it is their expression of what they believe the law to be and they want to go down in history as saying this. It's always been a mystery to me how some of the most important cases in the United States are decided by 5-4 decisions. I just don't understand how great men, supposedly, can be that far apart. And yet the five make the law and that happens quite often.

**Q. Is the District of Idaho unique in any way, compared with others where you have sat?**

A. Yes, I think we are unique in some ways. I think our court decorum is a little better than in some districts. We've been complimented on it by people from the East and other larger states. We don't let people run up and spit in the faces of the jurors, or run up and point their finger in the face of the witness, that sort of thing. I don't know if that's unique, but that's always been our procedure since I've been here and as I say, we've had quite a lot of compliments.

**Q. Based on your 33 years on the bench, what relationship do you see between punishment and reforming persons who appear before the Court?**

A. You don't reform anybody unless they want to be reformed. In the first place, the Court doesn't reform. If we send a man to the penitentiary and he wants to be reformed, that's where it will take place. I don't think the Court reforms except it might take that into consideration and put him on probation and give him a chance. There are three

things I think one has to consider in sentencing. One is punishment, one is deterrent and the other is to reform.

**Q. Do you think the cases are getting so complex with the law and facts and directions you give a jury that the juries have begun to be a little ineffective?**

A. Sometimes I wonder in a complicated or complex matter how a jury can be expected to find the facts and apply a treatise of law to them. But generally speaking they seem to come out pretty well. Sometimes they go astray, but generally I think they do pretty good. You take a case that goes on for weeks and months and I don't know how we can expect a jury to decide it.

**Q. Should a judgeship be a terminating point in a lawyer's career?**

A. When you get as old as I am, it is the terminating point. But when I went Senior, I could have retired and gone back into the law business. I couldn't do it unless I retired. But I think it would be pretty difficult. Maybe you could if you went off soon enough and started over again. But you see, when I practiced law we didn't have all this discovery and all that stuff. It's a paper war now. I don't think I could do it unless I had somebody under me that could handle all that paper work.

**Q. What has been the hardest part of your job as Judge?**

A. I think the hardest part, Bob, is to decide matters and to come to a decision and feel that you've done the right thing. And when I tried jury cases, I tried my best to see that there was a fair result. But you don't have much control in jury cases and in court cases you do. Sometimes it's a little difficult to come to a conclusion. You have to do a lot of work and a lot of research.

**Q. What's been the best part of the job?**

A. . . . the best part is feeling that you've done a commendable job, at least a satisfactory one. And I think,

from what my peers have said, I have done that.

**Q. Did you ever think back there in those days in Nampa, when you were working after school that it would come to all this?**

A. Oh no. I thought I'd be a truck driver all my life. Everything that has happened to me, Bob, has been a matter of fate — like going to school, getting out, starting my practice and everything that has happened to me. It has not been designed, really.

**Q. Would you like to talk about your family — the quality of life that you had?**

A. As I said, I met my first wife, Gwen, in Cascade where she was deputy clerk of the court. We had two lovely daughters and as you know, my oldest daughter was very gifted and talented and unfortunately died in 1964. My wife became ill in 1964 and off and on until her death, she was quite incapacitated. So that was quite a difficult time from my standpoint because at one time I had to have three nurses around the clock because I had to travel and do my job. But we had a good life and we enjoyed it, especially when we were younger. But the loss of our daughter was a great blow.

**Q. Then you married again?**

A. I married Bee, who was Beatrice Paris, and we've been married four years this October.

**Q. Do you plan to stay on as a senior judge?**

A. I almost retired the first of this year, but they talked me into staying for awhile. I think I'll stay as long as I can be of some help and as long as my health holds up. Also, what would I do? Unfortunately, I have no hobbies that would keep me busy, and I don't play golf anymore. We're not too much for traveling — Bee is a little more in favor of it than I am, but she can't go on sea voyages because she gets awful sick. But anyway I suppose I will be here for awhile longer. I don't know that I'll stay until I die, but of course you don't know about that either. □